

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WENTWORTH RATTRAY

*Amended*  
COMPLAINT AND JURY DEMAND

Docket #: 17 CV 8560

Plaintiff,

-against-

POLICE OFFICER CADAVID (Unit 28 David 412 Badge# 9085);

POLICE OFFICER SGT MERVIN BAUTISTA;

POLICE OFFICER ALYSSA TRIGUENO;

THE CITY OF NEW YORK;

Defendants

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: <u>  </u>
DATE FILED: <u>11/20/17</u>

Plaintiff Wentworth Rattray, Pro Se for his complaint alleges as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action in which Plaintiff seeks relief for the violation of Plaintiff's rights secured by 42 USC §1983, §1988, the Fourth and Fourteenth Amendments to the United States Constitution.  
In which
2. The claims arise from a November 5<sup>th</sup> 2016 incident in Plaintiff's home (42West 120<sup>th</sup> Street apartment 3C, New York, NY 10027) which Defendants, Officers of the New York City Police Department ("NYPD"), acting under color of state law, intentionally and willfully subjected Plaintiff to, *inter alia*, coercion (as defined in Article 135 - NY Penal Law - Part 3 - Title H - S 135.60), and unlawful restraint (as defined in Article 135 - NY Penal Law - Part 3 - Title H - S 135.10), and unlawful search after Plaintiff's refusal to voluntarily admit officers into his home. Officers used unreasonable force to search Plaintiff's dwelling without probable cause and without a warrant. This unwarranted search put Plaintiff at great risk of injury and continues to cause Plaintiff emotional distress and fatigue stemming from a diminished ability to fall sleep and stay asleep.
3. Plaintiff seeks monetary damages (special, compensatory, and punitive) against defendants, as well as an award of costs and attorneys' fees. Plaintiff also seeks implementation of oversight and training programs to 1) monitor the conduct of police officers in New York City, 2) compare police practices across precincts and

demographics, 3) increase transparency of police incidents and sharing of such best-practices across precincts, and further relief as the Court deems just and proper.

### JURISDICTION

4. This action is brought pursuant to 28 USC §1331, 42 USC §1983, and the Fourth and Fourteenth Amendments to the United States Constitution.
5. The amount in controversy exceeds \$75,000.00 excluding interest and costs.
6. Venue is laid within the United States District Court for the Southern District of New York in that Defendant City of New York is located within, and all of the events giving rise to the claim occurred within the boundaries of the Southern District of New York.

### PARTIES

7. Plaintiff Wentworth Rattray is a citizen of the United States and at all times here relevant resided in New York County, City and State of New York.
8. The City of New York (or "the City") is a municipal corporation organized under the laws of the State of New York. At all times relevant hereto, Defendant City, acting through the New York Police Department (or "NYPD"), was responsible for the policy, practice, supervision, implementation, and conduct of all NYPD matters and was responsible for the appointment, training, supervision, discipline and retention and conduct of all NYPD officers and dispatch personnel. In addition, at all times here relevant, Defendant City was responsible for enforcing the rules of the NYPD, and for ensuring that on-duty NYPD personnel obey the laws of the United States and the State of New York.
9. POLICE OFFICER CADAVID (Badge# 9085) was, at all times here relevant, a police officer of the NYPD, and as such was acting in the capacity of an agent, servant and employee of the City of New York. On information and belief, at all times relevant hereto, Officer CaDavid was the responding officer that trespassed into my apartment, without just cause, while he was under the command of the 28th Precinct of the NYPD. Defendant Police Officer CaDavid is sued in his official and individual capacity.
10. POLICE OFFICER ALYSSA TRIGUENO was, at all times here relevant, a police officer of the NYPD, and as such was acting in the capacity of an agent, servant and employee of the City of New York. On information and belief, at all times relevant hereto, Officer Trigueno was the female officer under the command of the 28th Precinct of the NYPD that stated that if "[Plaintiff] didn't have a piece of paper saying that she's [the child] supposed to be with you [plaintiff] we're going to take you [to jail] tonight". Defendant Trigueno is sued in her official capacity in filing an incomplete report, being complicit to officer Cadavid's misconduct. Officer Trigueno did not enter my residence.

11. POLICE OFFICER SGT MERVIN BAUTISTA was, at all times here relevant, a Sargent of the NYPD, and as such was acting in the capacity of an agent, servant and employee of the City of New York. On information and belief, at all times relevant hereto, Officer Bautista was responsible for supervising the conduct of the officers including reviewing their report for completeness and accuracy as to the facts known to him. Sargent Bautista is sued in his official capacity for failing to adequately supervise that officers are faithfully performing their duties
12. All other individual defendants ("the officers"), individuals whose names are currently unknown to plaintiff, are employees of the NYPD, and are sued in their official capacities.
13. At all times here mentioned defendants were acting under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the City and State of New York.

#### STATEMENT OF CLAIM

14. Within 90 days of the incident, plaintiff filed written Notice of Claim with the New York City Office of the Comptroller (Claim number: 2017pi002709) after previously filing complaints with NYPDs Internal Affairs Bureau (IAB Complaint # 2016-43035 dated 12/09/2016) as well as the New York State Attorney General – Public Integrity Bureau (Complaint # 17-0095). Over 100 days have elapsed since the filing of each of those notices, and this matter has not been settled or otherwise disposed of.

#### FACTUAL ALLEGATIONS

15. Plaintiff is a citizen of the United States.
16. Plaintiff is described by Operator 363714 at 18:52:45 in Event Chronology --D16110518835 dated 11/5/2016 as "Agressor MB, Light Skin, 48YO".
17. At the time of the incident, Plaintiff resided at 42 West 120<sup>th</sup> Street, #3C, NY, NY with his minor daughter.
18. At approximately 6:40PM on November 5<sup>th</sup>, 2016 Plaintiff returned to his home. After checking his mail in the lobby he noticed the child's mother standing outside the lobby door. Plaintiff went to the door and the child's mother, while standing outside, explained that she was there to pick-up the child for a visit. Plaintiff while standing inside the lobby explained to the mother that the child was not available and that if she wants to request an unscheduled visit she should arrange it with her attorney. Plaintiff closed the door and retreated to his apartment.
19. Shortly before 7PM two NYPD officers rang Plaintiff's doorbell announced themselves as police officers and asked to speak with Plaintiff.
20. Plaintiff asked what this was about, and the officer stated the child's mother was downstairs to pick up the minor child.

21. The male officer (Cadavid) asked Plaintiff to open the door so they could talk, Plaintiff refused and said he could hear them clearly. Officer Cadavid said he wasn't going to talk to Plaintiff through the door and asked if "you want us to take-down the door?"
22. Plaintiff opened the door and stood in the doorway and explained to the officers that the mother was either mistaken or was deliberately creating conflict to help her case.
23. The officers asked to see the child, Plaintiff refused and explained that the child was not home and would not be made available to speak to them.
24. The officers asked to come in and look around, Plaintiff refused.
25. One officer stated that if Plaintiff didn't have papers saying that the child should be with Plaintiff then Plaintiff would be going to jail.
26. Plaintiff asked if they, or anyone else, had papers saying that the child should be with someone else.
27. Plaintiff then asked to speak to a supervisor and moved to end the conversation by closing the door until the supervisor arrived.
28. New York City Police Officer Cadavid (Unit 28 David 412) put his foot to block the closing door, then pushed the door open and forced his way into the apartment.
29. Plaintiff retreated into the apartment to avoid Defendant, Officer Cadavid's, aggressive advance into the apartment.
30. Officer Cadavid, then walked into the minor child's room, looked in her closet, walked into Plaintiff's room, looked in plaintiff's closet, walked through the kitchen, into the bathroom, then returned to the living room.
31. Officer Cadavid demanded that Plaintiff present Plaintiff's identification. Plaintiff asked Officer Cadavid why the officer needed the Plaintiff's ID since Plaintiff was home and Plaintiff had done nothing wrong. Officer Cadavid, responded that he needed to know who he was dealing with. Plaintiff retrieved his wallet and presented the officer with his ID.
32. Officer Cadavid kept Plaintiff's ID in his possession while standing in front of the doorway and continued to interrogate the Plaintiff as to the whereabouts of Plaintiff's minor child.
33. Plaintiff explicitly told the officer Cadavid to leave Plaintiff's apartment.
34. Plaintiff was now irritated and reiterated that the minor child was not home, that she was where she needed to be, and that she was safe.
35. Officer Cadavid refused to leave the apartment, refused to return Plaintiff's identification.

36. Plaintiff became concerned for his own safety and called 911 to report that there was an officer in Plaintiff's apartment and that Officer Cadavid refused to leave.
37. When the 911 operator asked who the officers were Officer Cadavid read his badge number into the call on Plaintiff's phone in a strong clear voice.
38. Plaintiff asked to have a supervisor at the scene and the 911 operator offered to send assistance via a supervisor or internal affairs.
39. To the extent the Officer Cadavid relied on the statements of Plaintiff's child's mother in deciding to force his way into Plaintiff's apartment, such reliance was objectively unreasonable under the circumstances and introduced unnecessary danger into an otherwise benign situation.
40. Officer Cadavid displayed little regard for the safety of the occupants of the apartment, one of whom ostensibly could have been a minor child.
41. After satisfying himself that the minor child was not in the apartment, Officer Cadavid remained in the home and displayed such disregard for the sanctity of a person's home, and the safety, and sense of security in their own home.
42. Officer Cadavid has single-handedly created a blemish in Plaintiff's mind on the name and reputation NYPD officers to the extent that Plaintiff has changed his behavior, he no longer greets officers in passing them in the subway or on the street.
43. Plaintiff now worries about the motives of the squad cars parked on Plaintiff's block.
44. Plaintiff wakes-up at night from recurring dreams of alternate ways that that evening's unprovoked encounter could have ended with Plaintiff being shot, in his apartment, while doing everything that he can to stay safe and to keep his child safe.
45. To the extent the Officer Cadavid failed to get assistance from a supervisor or from the New York City's Administration for Children Services (ACS) before taking matters into his own hands on that evening was a failure in policing.
46. At all times during the events described above, the defendants were engaged in a joint venture and formed an agreement to violate Plaintiff's rights.
  - a. The individual officers assisted each other in performing the various actions described and lent their physical presence and support and the authority of their office to each other during the stated events.
  - b. The responding supervisor minimized the officer's actions and instructed the officers to fill out a DIR (Domestic Incident Report) but failed to ensure it had pertinent details (e.g., the report fails to mention that the officers entered my apartment against my wishes, or that the mother was mistaken about having visitation that day).

- c. The Office of Public Integrity disregarded the allegations made as to the incompleteness of the Domestic Incident Report.
- d. Initial 911 dispatcher (Operator ID#363714) at 18:52PM (event # D16110518835) labeled Plaintiff as the aggressor even though there was no aggression by either parent.
- e. Fellow officers failed to intervene in the obviously illegal actions of their fellow officers against Plaintiff.
- f. Wherein officers omitted key facts of the incident demonstrates that NYPD officers either acted in concert to create a misleading and incomplete official report of the incident or NYPD failed to adequately supervise its Officers.

47. During the event above Defendant Cadavid acted maliciously and with intent to violate Plaintiff's rights.

#### DAMAGES

48. As a direct and proximate result of the acts of defendants, plaintiff suffered the following injuries and damages:

- a. Violation of Plaintiff's rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution to be free from an unreasonable search and seizure of Plaintiff's person;
- b. Violation of Plaintiff's right to Due Process of Law under the Fourteenth Amendments to the United States Constitution;
- c. Violation of Plaintiff's New York State Constitutional rights under Article 1, Section 12 to be free from an unreasonable search and seizure;
- d. Violation of their New York State Constitutional rights under Article 1, Section 6 to due process;
- e. Emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, inconvenience, anxiety;

49. New York City's failure to ensure that officers are properly trained puts Plaintiff at a disadvantage in any future custody proceedings since public records will likely be checked in any future custody actions as a search for criminal activity or domestic incidents.

- a. Even if the records are corrected, the experience continues to weigh on Plaintiff's mind particularly when Plaintiff observe police officers and it will continue to impact plaintiff through-out Plaintiff's life since a police record search is one of the first things that will be checked by police officers responding to any future request for assistance going forward or by the courts in any future custody actions.

50. Officer Cadavid's custodial interrogation after coercing the Plaintiff to open the door, and forcibly entering the plaintiffs apartment against the plaintiff's explicit objection, amount to state action and adversely impact plaintiff's willingness and plaintiff's ability to stand up for Plaintiff's rights or advocate on behalf of

Plaintiff's child in the future. Plaintiff's standing in the eyes of the law are diminished given that there is now an unwarranted and recorded Domestic Incident Report (DIR) on file as a matter of public record. It has been over ten months since the incident and Plaintiff finds that Plaintiff still lives in fear of the police and Plaintiff is concerned that Plaintiff may be unwarrantedly targeted at home again or stopped on the street and asked to present Plaintiff's child or proof of custody.

51. Officer Cadavid's actions are part of a broader pattern of systemic abuse of police power that has become prevalent in this police precinct and most minority communities. These incidents are often dismissed at times even when there is serious bodily injury unless there is also recorded video. Officer Cadavid's abuse of his position in this incident is not just a violation of plaintiff's individual Constitutional rights, it is a symptom of one cause of the defect in broader police to community relations.
  
52. Police Officer Cadavid, Officer Trigueno, Sargent Bautista, The City of New York, and the New York Police Department have a duty as servants of the law and the people of the City of New York, to follow procedures that are put in place to protect the rights of all the citizens of the United States as outlined in the Fourth Amendment and recently affirmed by Judges Carlos Lucero, Gregory Phillips, and Nancy Moritz in the appellate decision *Harte v. Johnson County*.
  - a. Officers Cadavid, Trigueno, and Bautista failed their duty to faithfully execute the responsibilities of their position and to protect the rights of citizens.
  - b. The City of New York and the NYPD failed their duty to supervise or is complicit with these officers in violating the rights of the Plaintiff.
  
53. The police department's overly aggressive actions puts the lives of citizens in jeopardy particularly the lives of black men. There appears to be two standards for enforcing laws where the police are only held accountable when there is irrefutable video evidence of bodily injury but the citizens' rights are trampled at any whim of an officer, however unwarranted, flawed, or biased that whim may be.
  - a. Loss of liberty.

#### **FIRST CAUSE OF ACTION**

(42 USC § 1983)

54. The preceding paragraphs are here incorporated by reference.
  
55. Defendants have deprived Plaintiff of Plaintiff's civil, constitutional and statutory right under color of law and have conspired to deprive Plaintiff of such rights and are liable to Plaintiff under 42 USC § 1983.

56. Defendants' conduct deprived Plaintiffs of their right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution. Defendants' conduct also deprived Plaintiffs of his right to due process of law, pursuant to the Fourteenth Amendment of the United States Constitution.

57. Defendants failed to intervene in each other's obviously illegal actions.

58. On recognizing their error, after it was clear that there was no child in the residence, and that there was no scheduled pickup, and that Plaintiff could not have complied with their demand to present the child or to present papers to show custody the Police Officers continued their malicious conduct in concert by failing to enter and to verify the fact that they were into the record and instead selectively entered information in the DIR that gives the impression that an altercation had occurred and that the Plaintiff was at fault.

59. Plaintiff has been damaged as a result of defendants' wrongful acts.

#### SECOND CAUSE OF ACTION

##### (MUNICIPAL AND SUPERVISORY LIABILITY)

60. The above paragraphs are here incorporated by reference.

61. The City is liable for the damages suffered by Plaintiff as a result of the conduct of their employees, agents, and servants, in that, after learning of their employees' violation of Plaintiff's constitutional rights, the City and NYPD failed to remedy the wrong; they have created a policy or custom under which unconstitutional practices occurred and allowed such policies or customs to continue, and they have been grossly negligent in managing subordinates who caused the unlawful condition or event. The City of New York has been alerted to the regular use of excessive force and false arrests by its police officers, but has nevertheless exhibited deliberate indifference to such excessive force and false arrests; that deliberate indifference caused the violation of Plaintiffs' constitutional rights in this case.

62. The aforesaid event was not an isolated incident. The City has been aware for some time, from lawsuits, notices of claim, complaints filed with the Civilian Complaint Review Board, and judicial rulings suppressing evidence and finding officers incredible as a matter of law, that a disturbing number of their police officers use excessive force, unlawfully search and seize citizens, bring charges against citizens with no legal basis, perjure themselves in charging instruments and testimony, and fail to intervene in and report the obviously illegal actions of their fellow officers. Nevertheless, the City has allowed policies and practices that allow the aforementioned to persist.

63. The City of New York virtually never initiates findings of false statements against officers who have been shown to have made false statements nor do they discipline officers who have failed to report their fellow officers' misconduct; thus, officers have no real incentive to create reports truthfully.

64. Further, the City has no procedure to notify individual officers or their supervisors of unfavorable judicial review of their conduct. Without this notification, improper search and seizure practices and incredible testimony go uncorrected. The City of New York has isolated its law department from the discipline of police officers, so that civil suits against police officers for actions taken in their capacity as police officers have no impact on the officers' careers, regardless of the outcome of the civil actions.

65. The City is aware that all of the aforementioned has resulted in violations of citizens' constitutional rights. Despite such notice, the City has failed to take corrective action. This failure and these policies caused the officers in the present case to violate Plaintiff's civil rights, without fear of reprisal.

66. Plaintiff has been damaged as a result of the City of New York's and the NYPD's deliberate indifference to the constitutional rights of Harlem residents, with the black male Harlem resident demographic, i.e., Plaintiff's demographic, disproportionately bearing the brunt of that deliberate indifference.

67. The City is liable for the damages suffered by plaintiffs as a result of the conduct of their employees, agents, and servants, in that, after learning of their employees' violation of plaintiffs' constitutional rights, they failed to remedy the wrong; they have created a policy or custom under which unconstitutional practices occurred and allowed such policies or customs to continue, and they have been grossly negligent in managing subordinates who caused the unlawful condition or event. The City has been alerted to the regular use of excessive force and false arrests by its police officers, but has nevertheless exhibited deliberate indifference to such excessive force and false arrests; that deliberate indifference caused the violation of plaintiffs' constitutional rights in this case.

### THIRD CAUSE OF ACTION

#### (CONSPIRACY)

68. The above paragraphs are here incorporated by reference.

69. Defendants agreed to violate the plaintiffs' rights in the manner described above.

70. Further defendants made an agreement to attempt to cover up Officer Cadavid's trespass, as defined in (NY Laws › Penal Law › Part 3 › Title I › Article 140) into Plaintiff's dwelling by working together to leave critical facts that would support this action out of the written report.

71. The Police Department's refusal of FOIL request # 2017-PL-232 (request for IAB report) amounts to arbitrary and capricious withholding of information.

72. Plaintiff's reputation was irreparably damaged as a result of defendants' conspiracy and Plaintiff's emotional state continues to be affected by the still lingering effects of the Police Officer's intrusion and threats of "taking down the door" and "going to jail".

#### **FOURTH CAUSE OF ACTION**

##### **(CONSTITUTIONAL TORT)**

73. The above paragraphs are here incorporated by reference.

74. Defendants, acting under color of law, violated plaintiff's rights pursuant to §§ 5, 6 and 12 of the New York State Constitution.

75. A damages remedy here is necessary to effectuate the purposes of §§ 5, 6 and 12 of the New York State Constitution, and appropriate to ensure full realization of plaintiff's rights under those sections.

#### **FIFTH CAUSE OF ACTION**

##### **(NEGLIGENT HIRING & RETENTION)**

76. The above paragraphs are here incorporated by reference.

77. Defendant City of New York, through the NYPD, owed a duty of care to plaintiff to prevent the loss of liberty and mental anguish sustained by plaintiff.

78. Defendant City of New York, through the NYPD, owed a duty of care to plaintiff because under the same or similar circumstances a reasonable, prudent and careful person should have training to not assume that a crying caller is not necessarily the victim of any misconduct and that a black male is not necessarily the aggressor as named in the 911 operators initial report.

79. Defendant City of New York should train its Officers not to base decisions on use of force on stereotypes but to instead base their decisions on information and evidence.

80. Conducting a warrantless search without probable cause escalates tensions and creates dangerous confrontations that often lead to injury to members of Plaintiff's demographic.

81. Upon information and belief, defendant Officer, Cadavid, was incompetent and unfit for the responsibilities of his position.

82. Upon information and belief, Defendant City of New York knew or should have known through exercise of reasonable diligence that defendant Officer, Cadavid was potentially dangerous and had previously made false statements and violated other citizen's constitutional rights.

83. Defendant City of New York's negligence in hiring and retaining the officer defendants proximately caused plaintiff's mental anguish.

84. Because of the Defendant City of New York's negligent hiring and retention of defendant officers, plaintiff incurred damages described above.

#### **SIXTH CAUSE OF ACTION**

(RESPONDEAT SUPERIOR)

85. The above paragraphs are here incorporated by reference.

86. Defendants' intentional tortious acts were undertaken within the scope of their employment by Defendant City of New York and in furtherance of the Defendant City of New York's interest.

87. As a result of defendants' tortious conduct in the course of their employment and in furtherance of the business of Defendant City of New York, Plaintiff was damaged.

**WHEREFORE**, plaintiffs demand judgment against the defendants, jointly and severally, as follows:

- A. In favor of plaintiffs in an amount to be determined by a jury for each of plaintiff's causes of action;
- B. Awarding plaintiffs punitive damages in an amount to be determined by a jury;
- C. Awarding plaintiffs reasonable attorneys' fees, costs and disbursements of this action;
- D. Directing the City of New York and the NYPD to improve NYPD's training, supervision, and transparency into the conduct of its officers. (e.g., Publishing not only the number of officers killed in the line of duty but equivalently how many unarmed civilians are killed in the line of duty by precinct).
- E. Plaintiff ask the Court to:
  - a. consider appointing an e-discovery expert as a special master to oversee the discovery process with regard to the New York City Defendants, or appoint a forensic computer examiner to examine Defendants' computer systems for the purpose of locating requested documents or determining if and when and by whom they were destroyed,
  - b. afford the Plaintiff the opportunity to examine under oath those individuals responsible for locating, identifying and producing documents, particularly electronically stored information (ESI) including the recording of the 911 call placed by the plaintiff as well as the transcript and event chronology of the initial dispatch call (D16110518835) with system comments and associated events,
  - c. afford the Plaintiff the opportunity to review relevant police reports and records as well as results of investigations (e.g., Plaintiff's statement to and subsequent investigations in the NYPD IAB Report).

d. Permit the Plaintiff additional time to file the Notice of Claim against the City of New York (Claim [#2017 Pi 002709] )

F. Granting such other and further relief as this Court deems just and proper.

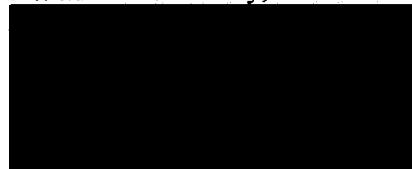
**Dated:** November 20, 2017  
New York, New York

**TO:** New York City

Sincerely,



Wentworth Rattray, Pro Se



Corporation Counsel Office  
100 Church Street, 4th floor  
New York, NY 10007

PO CaDavid - Shield #9085  
NYPD 28th Pct.  
2271-89 8th Ave  
New York, New York, 10027-5319  
(212) 678-1611

PO Alyssa Trigueno –  
NYPD 28th Pct.  
2271-89 8th Ave  
New York, New York, 10027-5319

PO Sgt. Mervin Bautista –  
NYPD 28th Pct.  
2271-89 8th Ave  
New York, New York, 10027-5319

**Exhibits:**

- 1) Foil Request Response Letter (FOIL Req # 2017-PL-232 Re: IAB report) 1 page
- 2) Transcript of 911 call(s) (Event Chronology – D16110518835) 3 pages
- 3) Domestic Incident Report (DIR#2016-028-010736) 3 pages
- 4) Letter - Acknowledgement of Claim [#2017 Pi 002709] – City of New York – Office of the Comptroller (1/31/2017)
- 5) Letter – Disallowance [#2017 Pi 002709] – City of New York – Office of the Comptroller (2/1/2017)
- 6) Notice of Claim – Office of the Comptroller (01/27/2017)
- 7) Letter Office of the Attorney General – State of New York 01/31/2017
- 8) Complaint Form – New York State Office of the Attorney General – Public Integrity Bureau
- 9) FOIL REQ # 2016-PL-14408
- 10) Letter FOIL REQ # 2016-PL-14408 (dated 12/16/2016)
- 11) Letter – Disallowance [#2017 Pi 002709] – City of New York – Office of the Comptroller (2/10/2017)
- 12) Revised Notice of Claim – Office of the Comptroller (02/06/2017)

## V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

11/20/2017

Dated

Wentworth

First Name

G.

Middle Initial

Plaintiff's Signature

KATTRAY

Last Name

Street Address

County, City

State

Zip Code

Telephone Number

Email Address (if available)

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

Yes  No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.



POLICE DEPARTMENT  
LEGAL BUREAU  
F.O.I.L Unit, Room 110C  
One Police Plaza  
New York, NY 10038

01/10/17

Wentwerth Rattray

FOIL Req #: 2017-PL-232  
Your File #: \_\_\_\_\_  
Re: IAB report

Dear Sir or Madam:

This is in response to your letter dated 01/03/17, which was received by this office on 01/03/17, in which you requested access to certain records under the New York State Freedom of Information Law (FOIL).

In regard to the documents(s) which you requested, I must deny access to these records on the basis of Public Officers Law Section 87(2)(e)(iv) as such information, if disclosed, would reveal non-routine techniques and procedures.

You may appeal this decision or any portion thereof. Such an appeal must be made in writing within thirty (30) days of the date of this letter and must be forwarded to: Sergeant Jordan S. Mazur, Records Access Appeals Officer, New York City Police Department, One Police Plaza, Room 1406, New York, NY 10038. Please include copies of the FOIL request and this letter with your appeal.

Very truly yours,

A handwritten signature in black ink, appearing to read "LT M".

Richard Mantellino  
Lieutenant  
Records Access Officer

# Event Chronology -- D16110518835

System Comments  Associated Events

Event	Time	Date	Terminal Operator	Action
16110518835	18:49:43	11/5/2016	ps1-c076	<u>363714</u> ANI NUM=65983377, CALLER NAME=CELL SITE - TMOBILE, ANI=65983377, ALI=14695TH AVENUE NEW YORK, COMMENT=: NW, COMPANY=TMOB, CLASS=WPH1,LAT=+040.802321,LONG=-073.945047,XY=XY (99946602,23158943)
	18:50:04	11/5/2016	ps1-c076	<u>363714</u> ANI NUM=65983393, CALLER NAME=CELL SITE - TMOBILE, ANI=65983393, ALI=14695TH AVENUE NEW YORK, COMMENT=: NW, COMPANY=TMOB, CLASS=WPH2,LAT=+040.804113,LONG=-073.946228,XY=XY (99913865,23224211)
	18:51:56	11/5/2016	ps1-c076	<u>363714</u> EVENT CREATED: Location=42 W 120 ST MN , Cross Streets=MOUNT MORRIS PARK W /LENOX AVE , Name=CELL SITE - TMOBILE , Address=LL(-73:56:46.4209,40:48:14.8067): EST 4 MOUNT MORRIS PARK W MN , Call Source=ANI/ALI , Phone Number=, Zone=Z07 , PCT/Sector=28D , Post=28PP63 Route=D, PCT=28, Sector=28D, St=Pending, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F
	18:51:56	11/5/2016	loi-search	<u>363714</u> EVENT COMMENT=** LOI search completed at 11/05/16 18:51:56
				FC STS CUSTODIAL DISP W FATHER OF CHILD.... FATHER REFUSING TO GIVE CHILD
				BACK.... FC HYSTERICAL CRYING.... IFO AGGRESSORS HOME, AGRESSOR INSIDE 3C ON 3
				FLR..... NO WPNS.... NO INJS....
	18:52:45	11/5/2016	ps1-c076	<u>363714</u> EVENT COMMENT=AGGRESSOR MB, LIGHT SKIN, 48 YO, WRNG OLIVE JKT, LIGHT KHAKI PANTS, BLK OR GRY T SHIRT, NAME GARY RATTRAY
	18:52:56	11/5/2016	ps1-c076	<u>363714</u> EVENT COMMENT=SFC SANDY
	18:53:04	11/5/2016	ps1-c076	<u>363714</u> EVENT COMMENT=ANI-ALI [REDACTED] CELL SITE - TMOBILE 1469 5TH AVE NW NEW YORK COS:WPH2 LAT: 040.804113,LON:-073.946228 OPER MELIDONES, KRYSTIN M-C-MTCCP076 OPR 1988
	18:54:34	11/5/2016	ps1-d07	<u>362665</u> EVENT COMMENT=Event D16110518835 has been displayed by the covering dispatcher ** >>> by: 362665 at 11/05/16 18:54:34 on terminal: ps1-d07
	18:54:37	11/5/2016	ps1-d07	<u>362665</u> Route=D, PCT=28, Sector=28D, St=Dispatch Assigned, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F Unit=28D1-3, St=DA, Comment=Event D16110518835 Dispatch Assigned EVENT COMMENT=28D1-3 -- Event D16110518835 Dispatch Assigned Route=D, PCT=28, Sector=28D, St=Dispatch Assigned, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F
	19:03:33	11/5/2016	ps1-d07	<u>362674</u> Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY,

Open/Current=F  
Unit=28D1-3, St=84, Loc=42 W 120 ST MN  
Unit=28D1-3, St=DP, Loc=42 W 120 ST MN  
Unit=28D1-3, St=84, Comment=DA Auto Promote, Loc=42 W 120 ST MN  
EVENT COMMENT=28D1-3 -- DA Auto Promote  
19:08:32 11/5/2016 ps1-d07 362674 Unit=28D1-3, St=85, Loc=42 W 120 ST MN  
Route=D, PCT=28, Sector=28D, St=Assigned, P=5,  
19:08:40 11/5/2016 ps1-d07 362674 Current=F, Open =T, Type=52D6-DISPUTE: FAMILY,  
Open/Current=F  
Unit=28LT1, St=DA, Comment=Event D16110518835 Dispatch  
Assigned  
EVENT COMMENT=28LT1 -- Event D16110518835 Dispatch  
Assigned  
Route=D, PCT=28, Sector=28D, St=Assigned, P=5,  
19:09:56 11/5/2016 ps1-d07 362674 Current=F, Open =T, Type=52D6-DISPUTE: FAMILY,  
Open/Current=F  
Unit=28LT1, St=DP, Loc=42 W 120 ST MN  
Route=D, PCT=28, Sector=28D, St=Assigned, P=5,  
19:10:25 11/5/2016 ps1-d07 362674 Current=F, Open =T, Type=52D6-DISPUTE: FAMILY,  
Open/Current=F  
Route=D, PCT=28, Sector=28D, St=Assigned, P=5,  
Current=F, Open =T, Type=52D6-DISPUTE: FAMILY,  
Open/Current=F  
Unit=28LT1, St=UC, Comment=Preempt  
Unit=28LT1, St=AV  
Unit=28LT1, St=DA, Comment=Event D16110518835 Dispatch  
Assigned  
EVENT COMMENT=28LT1 -- Preempt  
28LT1 -- Event D16110518835 Dispatch  
Assigned  
19:11:04 11/5/2016 ps1-d07 362674 EVENT COMMENT=AUTH OF 28D---REQ LT TO LOC ----D2112  
19:12:25 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=ANOTHER CALL -- MC STS THE OFFICERS  
CAME INTO APARTMENT ASKING FOR ID AND PROOF  
HE HAS CUSTODY OF HIS CHILD ---  
19:12:41 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=MC STS HE ASKED THEM TO LEAVE AND  
THEY REFUSED  
19:13:08 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=--- MC STS THEY ARE SEARCHING HIS  
APARTMENT ILLEGALLY.  
19:13:26 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=REQUESTING SGT TO LOC  
19:13:53 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=MC RATTRAY CB [REDACTED]  
19:14:12 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=1 OFFICERS BADGE IS 9085 -- OTHER  
OFFICER BADGE UNKN  
19:15:23 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=MC REFUSED TO SPEAK WITH IAB ---  
ONLY WANTS SGT TO LOC  
19:15:30 11/5/2016 ps2-  
c042 363728 EVENT COMMENT=ANI-A [REDACTED] VERIZON WIRELESS  
1980 7TH AVE SE SECTOR NEW YORK COS:WPH2

LAT: 040.803137 LON:-073.946121 OPER  
GUTIERREZ, RICHARD A-C-PCPPDVCP518-135 OPR

19:22:12 11/5/2016 ps1-d07 362674 Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F  
Unit=28LT1, St=DP, Loc=42 W 120 ST MN

19:22:35 11/5/2016 ps1-d07 362674 Unit=28LT1, St=ER, Loc=42 W 120 ST MN

19:38:32 11/5/2016 ps1-rc01 Unit=28D1-3, St=~, Loc=42 W 120 ST MN

19:41:08 11/5/2016 ps1-d07 362674 Unit=28D1-3, St=CU, Comment=Alarm Timer Extended: 30, Loc=42 W 120 ST MN  
EVENT COMMENT=28D1-3 -- Alarm Timer Extended: 30

19:52:35 11/5/2016 ps2-ts05 359149 Unit=28LT1, St=~, Loc=42 W 120 ST MN

20:10:32 11/5/2016 ps2-ts06 338663 Unit=28D1-3, St=~, Loc=42 W 120 ST MN

20:11:58 11/5/2016 ps1-d07 362674 Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F  
Unit=28LT1, St=UC, Comment=Preempt  
Unit=28LT1, St=AV  
EVENT COMMENT=28LT1 -- Preempt

20:11:59 11/5/2016 ps1-d07 362674 Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Primary Unit=28D1-3, Primary Member=0, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F  
Unit=28LT1, St=DA, Comment=Event D16110518835 Dispatch Assigned  
EVENT COMMENT=28LT1 -- Event D16110518835 Dispatch Assigned

20:15:25 11/5/2016 ps1-d07 362674 Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Primary Unit=28D1-3, Primary Member=0, Current=F, Open =T, Type=52D6-DISPUTE: FAMILY, Open/Current=F  
Route=D, PCT=28, Sector=28D, St=Assigned, P=5, Primary Unit=28D1-3, Primary Member=0, Current=T, Open =F, Type=52D6-DISPUTE: FAMILY, Open/Current=F  
EVENT CLOSED  
Unit=28D1-3, St=AV  
Unit=28LT1, St=AV, Loc=42 W 120 ST MN  
Disposition Assigned=90F1

Agency N.Y. POLICE DEPT	ORI NY03030002	NYPD DOMESTIC INCIDENT REPORT			Incident # 2016-028-010736		Complaint #
Date of Report 11/05/2016	Time of Report 1956	Date of Occur 11/05/2016	Time of Occur 1851	Response Type RADIO RUN	ICAD # D16110518835	ICAD N/A Reason:	Other Reason:
Unfounded NO	Address of Occurrence [REDACTED]		Pct 28	PSA	Sector D		
<b>Victim: SANDY, WENDY M.</b>							
Victim's Last Name, First M.I. [REDACTED]	Alias	Address [REDACTED]			Pct	PSA	
Sex: FEMALE Self-Identified: Race: BLACK Ethnicity: Language: ENGLISH	Date of Birth: Age: [REDACTED]	Home Phone: Other Phone: [REDACTED]			Member of Service: NO		
SAFE# or way to contact [REDACTED]		Other Identifier [REDACTED]					
<b>Suspect: RATTRAY, GARY WENTWORTH</b>							
Suspect's Last Name, First M.I. RATTRAY, GARY WENTWORTH	Alias	Address [REDACTED]			Pct 28	PSA	
Sex: MALE Self-Identified: Race: BLACK Ethnicity: Language: ENGLISH	Date of Birth: Age: 49	Home Phone: Other Phone: [REDACTED]			Member of Service: NO		
Do suspect and victim live together? NO		Suspect (P2) Relationship to Victim (P1):		Suspect/P2 Present: YES		Was suspect injured? NO	
Do the suspect and victim have a child in common? YES		Possible drug or alcohol use? NO				Suspect supervised? Status Unknown	
<b>Victim Interview</b>							
<b>Emotional condition of VICTIM?</b> Crying,							
<b>What were the first words that VICTIM said to the Responding Officers at the scene regarding the incident?</b> NA/							
Did suspect make victim fearful? YES NA/		Weapon Used?	Gun:	Access to Guns? NO		Injured? NO	In Pain? NO
Suspect Threats?			Strangulation? NO			Visible Marks? NO	
<b>Suspect</b>							
<b>What did the SUSPECT say (Before and After Arrest) :</b> N/A							

710.30 completed?
-------------------

**Child/Witness**

Person's Last Name,First M.I.	Alias	Address	Relationship	Date of Birth	Phone
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**Incident Narrative**
**Briefly Describe the circumstances of this incident:**

AT TPO P1 AND P2 HAD A DISPUTE OVER CUSTODY OF CHILD AND DATES TO PICK UP CHILD. P1 CALLED POLICE, BECAUSE P2 REFUSED TO LET P1 SEE CHILD. P1 AND P2 HAVE JOINT CUSTODY OF CHILD. WHEN OFFICERS RESPONDED TO SPEAK TO P2, P2 WAS BEING AGGRESSIVE AND REFUSED OFFICERS TO SEE CHILD NOR SHOW COURT PAPERS. P2 WAS BEING OFFENSIVE AND CURSING OUT OFFICERS, TRY CLOSING DOOR. CHILD WAS NOT AT LOCATION AT TIME, SO MOTHER WAS UNABLE TO PICK UP CHILD.

DIR Repository checked NO	Order of Protection Registry checked? NO	Order of Protection in effect? NO	Order of Protection Type?
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**Evidence**

Evidence Present	Photos Taken:	Other Evidence:	Destruction of Property?
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**Prior History**
**Describe Victim's prior domestic incidents with this suspect (Last, Worst, First):**

N/A

**Has Suspect ever:**

If the Victim answers "yes" to any questions in this box refer to the NYS Domestic and Sexual Violence Hotline at 1-800-942-6906 or Local Domestic Violence Service Provider.					Local Domestic Violence Service Provider Phone No.
Threatened to kill you or your children? NO	Strangled or "choked" you? NO	Beaten you while you were pregnant? NO	Is suspect capable of killing you or children? NO	Is suspect violently and constantly jealous of you? NO	Has the physical violence increased in frequency or severity over the past 6 months? NO

**Interpreter**

Interpreter Used	Interpreter Requested	Interpreter's Last Name, First	Internet Service Provider
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**Statement of Allegations/Supporting Desposition**

I CAME TO PICK [REDACTED] UP AT 7PM 11-5-16. I HAVE BEEN CALLING HER TO LET HER KNOW THAT I AM PICKING AT 7PM DID NOT ANSWER ANY PHONE CALLS THEN I SAW THE DAD AND HE HOLD ME ME THAT AUTUMN IS NOT HOME AND I WOULD NOT BE SEEING MY CHILD

**Is there reasonable cause to suspect a child may be the victim of abuse, neglect, maltreatment or endangerment?**

Was DIR given to the victim at scene? YES	If No, Why?:	Was Victim Rights Notice given to victim YES	If No, Why?:	Entered By TaxID 345302	Entered By Date 11/07/2016
Reporting Officer:	Jurisdiction	Name [REDACTED]	Rank POF	Tax ID 957226	Date 11/07/2016
Detective Assigned:	Name		Rank	Tax ID	Date

Supervisor Sign-off:	Name	Rank	Tax ID	Date
	BAUTISTA , MERVIN	SGT	929694	11/08/2016



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
CLAIMS AND ADJUDICATIONS  
1 CENTRE STREET ROOM 1200  
NEW YORK, N.Y. 10007-2341

WWW.COMPTROLLER.NYC.GOV

015 - 151

Scott M. Stringer  
**COMPTROLLER**

Date: 01/31/2017  
Claim No: 2017PI002709  
RE: Acknowledgment of Claim  
Your Claim/Policy#:

WENTWORTH RATTRAY  
[REDACTED]

Dear Claimant:

We acknowledge receipt of your claim, which has been assigned the claim number shown above. Please refer to this claim number in any correspondence or inquiry you may have with our office.

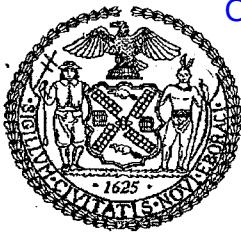
We will do our best to investigate and, if possible, settle your claim. However, if we are unable to resolve your claim, **any lawsuit against the City must be started within one year and ninety days from the date of the occurrence.**

If you have any questions regarding your claim, you may contact us at 212-669-2478 for claims involving personal injury.

Sincerely,

Bureau of Law & Adjustment

THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER  
1 CENTRE STREET, NEW YORK, N.Y. 10007-2341



Scott M. Stringer  
COMPTROLLER

015 - 158

Date: 02/01/2017  
RE: Disallowance-Insuff. Proof

WENTWORTH RATTRAY  
Claim number: 2017PI002709  
Agency: POLICE DEPARTMENT

WENTWORTH RATTRAY  
[REDACTED]

Your claim has been disallowed. You failed to provide one of the following items: the date, location and description of the alleged accident and the manner in which the claim arose, as required by General Municipal Law Section 50-e.

If you wish to pursue your claim you must start an action within one year and ninety days from the date of occurrence.

If you have been scheduled for a Comptroller's hearing pursuant to General Municipal Law, Section 50-h) you should deem the hearing canceled.

Very truly yours,

  
ANASTASIA PEREZ

Bureau of Law & Adjustment

PERSONAL INJURY  
(212) 669-2251

OFFICE OF THE COMPTROLLER CITY OF NEW YORK

**CLAIMANT INFORMATION**

NOTICE OF CLAIM

**STREET**      **ADDRESS:** [REDACTED]

CITY: New York STATE: NY ZIP: 10027

SOC. SEC. # or TAX I.D. #: [REDACTED]

**CLAIM INFORMATION**

**CITY AGENCY INVOLVED:** New York City Police Department

NATURE OF CLAIM: (ATTACH ADDITIONAL SHEET(S) OF PAPER, IF NECESSARY)

Unlawful conduct by a police officer. Violation of 4th Amendment right - unlawful search, unlawful detention, unlawful entry without probable cause.

Reckless endangerment. Police officer filing official report that omit key details about police wrong doing and selectively including information that defames the citizens. Police officer displaying unwarranted disregard for citizens rights and safety.  
E.g. First example of an incident is the Case# 2016-029-010726

TOTAL AMOUNT CLAIMED: \$ 1,360,000.00

IF MORE THAN ONE ITEM IS INCLUDED IN THE TOTAL AMOUNT CLAIMED, SUPPLY BREAKDOWN OF AMOUNTS AND SPECIFY ITEMS: (ATTACH ADDITIONAL SHEET(S), IF NEEDED)

<u>ITEM</u>	<u>AMOUNT</u>
1. Pattern of select abuse of police power	\$ 1,000,000
2. Violation of individual civil rights	\$ 200,000
3. Inaccurate characterization of events as DIR	\$ 150,000
4. Future Attorney's fees for managing custody case	\$ 10,000
5. _____	\$ _____

PLEASE ATTACH COPIES OF SUPPORTING DOCUMENTATION, PREVIOUS CORRESPONDENCE, INVOICES, ETC.

**CLAIMANT'S SIGNATURE:**

SS: STATE OF N.Y. CITY OF N.Y. SUBSCRIBED AND SWORN TO BEFORE ME THIS 26 DAY OF

January 2017

00004

TO: OFFICE OF THE COMPTROLLER  
DIVISION OF LAW - RM.1225 South  
1 CENTRE STREET  
NEW YORK, N.Y. 10007  
TELEPHONE # (212) 669-4736

**JEFFERSON E AVILES**  
Notary Public, State of New York  
No. 01AV6339820  
Qualified in Bronx County  
My Commission Expires 01/01/2020

## OFFICE OF THE COMPTROLLER CITY OF NEW YORK

CLAIMANT INFORMATIONNOTICE OF CLAIMCLAIMANT'S NAME: Wenworth Rattray TEL. #: [REDACTED]STREET ADDRESS: [REDACTED]CITY: New York STATE: NY ZIP: 10027SOC. SEC. # or TAX I.D. #: [REDACTED]CLAIM INFORMATIONCITY AGENCY INVOLVED: New York City Police DepartmentNATURE OF CLAIM: (ATTACH ADDITIONAL SHEET(S) OF PAPER, IF NECESSARY)

Unlawful conduct by a police officer. Violation of 4th Amendment right - unlawful search, unlawful detention, unlawful entry without probable cause.

Reckless endangerment. Police officer filing official report that omit key details about police wrong doing and selectively including information that defames the citizens. Police officer displaying unwarranted disregard for citizens rights and safety.  
E.g., First example of an incident in the Class 2016-029-010736TOTAL AMOUNT CLAIMED: \$ 1,360,000.00

IF MORE THAN ONE ITEM IS INCLUDED IN THE TOTAL AMOUNT CLAIMED, SUPPLY BREAKDOWN OF AMOUNTS AND SPECIFY ITEMS: (ATTACH ADDITIONAL SHEET(S), IF NEEDED)

ITEM	AMOUNT
1. Pattern of select abuse of police power	\$ 1,000,000
2. Violation of individual civil rights	\$ 200,000
3. Inaccurate characterization of events as DIR	\$ 150,000
4. Future Attorney's fees for managing custody case	\$ 10,000
5. _____	\$ _____

PLEASE ATTACH COPIES OF SUPPORTING DOCUMENTATION, PREVIOUS CORRESPONDENCE, INVOICES, ETC.

CLAIMANT'S SIGNATURE: Wenworth Rattray

SS: STATE OF N.Y.

CITY OF N.Y. SUBSCRIBED AND SWORN TO BEFORE ME THIS 26 DAY OF

January, 2017

Jefferson E. Aviles  
NOTARYTO: OFFICE OF THE COMPTROLLER  
DIVISION OF LAW - RM. 1225 South  
1 CENTRE STREET  
NEW YORK, N.Y. 10007  
TELEPHONE # (212) 669-4736JEFFERSON E AVILES  
Notary Public, State of New York  
No. 01AV6339620  
Qualified in Bronx County  
My Commission Expires 04/04/2020



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF CRIMINAL JUSTICE  
PUBLIC INTEGRITY BUREAU

January 31, 2017

Wentworth Rattray  
[REDACTED]

RE: Complaint # 17-0095

Dear Mr. Rattray:

On behalf of Attorney General Eric T. Schneiderman, I thank you for the information you provided to our office dated January 25, 2017.

The Public Integrity Bureau has carefully reviewed your correspondence and has determined that your complaint does not warrant action by this office at this time.

Please be advised that this Office does not provide legal opinions nor represent individuals. If you believe that you may have an individual claim, you may wish to consult a private attorney. Your local bar association provides attorney referrals. **Please note: The complaint you have filed with this Office has no effect on any statute of limitations filing deadlines that might apply to your claim.** By filing a complaint with this Office, you have not initiated a lawsuit or a proceeding, nor has this Office initiated a lawsuit or a proceeding on your behalf.

Thank you again for bringing this matter to our attention.

Very truly yours,

Public Integrity Bureau

NEW YORK STATE  
OFFICE OF THE ATTORNEY GENERAL  
PUBLIC INTEGRITY BUREAU  
120 Broadway, 22<sup>nd</sup> Floor  
New York, NY 10271

COMPLAINT FORM

1. PLEASE TYPE OR PRINT CLEARLY IN DARK INK.
2. COMPLETE THE ENTIRE FORM AND SIGN.
3. RETURN/SEND FORM TO THE PUBLIC INTEGRITY BUREAU.

**COMPLAINANT**

Your Name: Wentworth Rattray

Home Tel. [REDACTED]

Street Address: [REDACTED]

Business Tel

City/Town: New York, NY

Zip: 10027 County: New York

**COMPLAINT**

Public Agency/Individual you are complaining about: NYPD and PO Cadavid and PO Trigueno

Street Address (if known):

City/Town: New York, NY Zip: County: New York

Has this matter been submitted to another agency?  Yes  No

If so, which agency: IAB Complaint # 2016-43035

Is there any legal action pending?  Yes  No

If so, where:

**PLEASE BRIEFLY DESCRIBE YOUR COMPLAINT BELOW**  
(use back of form or attach additional documentation if necessary)

On November 5th 2016, PO Cadavid (Unit 28 David 412th) of the NYPD violated my right to be free from unreasonable search by forcibly entering my apartment against my explicit refusal of his verbal request to enter.

The officer used intimidation and threats of taking down the door to get me to open the door, and once the door was open used force, to enter my apartment. On seeing that they had no reason to be in my apartment, rather than leaving the officer stayed in my apartment, with my ID in his hand demanding information. I was in fear for my life and called 911 to end the standoff.

The officer(s) then failed to ensure that their report of the incident included all the relevant details, instead they created a domestic incident report (2016-028-010736) that was prejudicial toward me and failed to mention the fact that officer Cadavid had forcibly entered my apartment and conducted a warrantless room by room search.

**READ THE FOLLOWING BEFORE SIGNING BELOW:**  
I understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature: Wentworth Rattray

Date: 1/25/2017

Return to:

NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL  
PUBLIC INTEGRITY BUREAU  
120 Broadway, 22<sup>nd</sup> Floor  
New York, NY 10271

Received by:

Date:



POLICE DEPARTMENT  
LEGAL BUREAU  
F.O.I.L Unit, Room 110C  
One Police Plaza  
New York, NY 10038

Wentworth "Gary" Rattray

12/16/16

FOIL Req #: 2016-PL-14408  
Your File #:

Dear Sir or Madam:

This is in response to your letter dated 12/09/16, which was received by this office on 12/09/16, in which you requested access to certain records under the New York State Freedom of Information Law (FOIL).

Responsive to your request, the following document(s) have been accessed and photocopied:

*Various NYPD Records*

Redactions have been made to the document(s) in that the release of such information would represent an unwarranted invasion of personal privacy and would endanger the life and safety of any person  
{§ 87.2 (b) and (f)}

For the following requested item(s), I must refer you to the appropriate agency/agencies or unit that may be in possession of such documents:

In total, 6 page(s) have been copied. Please remit payment in the amount of \$ No Charge within thirty (30) days. Failure to do so will result in this file being CLOSED.

The requested documents are enclosed with this letter.

Upon receipt of payment, the requested documents will be mailed.

#### PAYMENT PROCEDURE

Send check or money order (no cash) Payable to the "New York City Police Department"

Mail payment to:

New York City Police Department, F.O.I.L Unit, Room 110C, One Police Plaza, New York, NY 10038

**Note: Please include the FOIL number on the check or money order**

#### APPEAL PROCEDURE

Should you so desire, you may appeal this decision or any portion thereof. Such an appeal must be made in writing, within thirty (30) days of the date of this letter, and must be forwarded to:

Sergeant Jordan S. Mazur, Records Access Appeals Officer, New York City Police Department, One Police

Plaza, Room 1406, New York, NY 10038

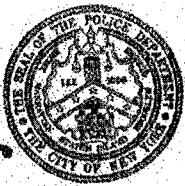
Please include copies of the FOIL request and this letter with your appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "CTM". It is written in a cursive, flowing style with a large, prominent "C" at the beginning.

Richard Mantellino  
Lieutenant  
Records Access Officer

COURTESY • PROFESSIONALISM • RESPECT



*The  
City  
of  
New York*

POLICE DEPARTMENT  
LEGAL BUREAU  
F.O.I.L Unit, Room 110C  
One Police Plaza  
New York, NY 10038

12/16/16

Wentworth "Gary" Rattray

FOIL Req #: 2016-PL-14408  
Your File #:

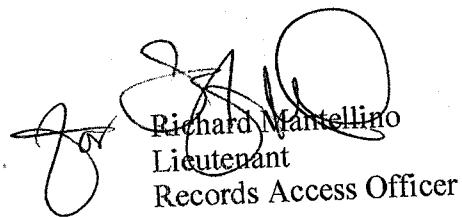
Dear Sir or Madam:

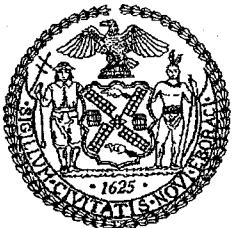
This is in response to your letter dated 12/09/16, which was received by this office on 12/09/16, in which you requested access to certain records under the New York State Freedom of Information Law (FOIL).

Your request has been assigned to Principal Ellis (646-610-6436) of this office. Before a determination can be rendered, further review is necessary to assess the potential applicability of exemptions set forth in FOIL, and whether the records can be located. I estimate that this review will be completed, and a determination issued, within ninety business days of this letter.

This is not a denial of the records you requested. Should your request be denied in whole or in part, you will then be advised in writing of the reason for any denial, and the name and address of the Records Access Appeals Officer.

Very truly yours,

  
Richard Mantellino  
Lieutenant  
Records Access Officer



**THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER**  
1 CENTRE STREET, NEW YORK, N.Y. 10007-2341

**Scott M. Stringer**  
COMPTROLLER

015 - 155

Date: 02/10/2017  
RE: Disallowance-Over 90 Days

WENTWORTH RATTRAY  
Claim number: 2017PI002709

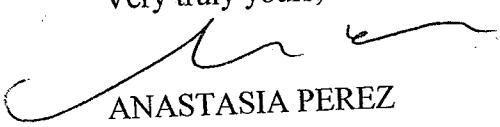
WENTWORTH RATTRAY

Dear Claimant:

We regret to inform you that your claim has been disallowed. Your claim was not filed within 90 days from the date of occurrence as required by the General Municipal Law Section 50-e. Claims must be filed with either the New York City Office of The Comptroller, the New York City Law Department, the New York City Board of Education or the New York City Health and Hospitals Corporation, depending on the substance of the claim.

If you have been scheduled for a Comptroller's hearing (50-h, General Municipal Law), please deem the hearing canceled.

Very truly yours,

  
ANASTASIA PEREZ

Bureau of Law & Adjustment

PERSONAL INJURY  
(212) 669-2251

*M. A. Perez*

*212 669 2251*

*Court of Appeals Notice of Claim to be Accepted*

OFFICE OF THE COMPTROLLER CITY OF NEW YORK

NOTICE OF CLAIMCLAIMANT INFORMATIONCLAIMANT'S NAME: Wentworth Rattray TEL. #: REDACTEDSTREET ADDRESS: REDACTEDCITY: New York STATE: NY ZIP: 10027SOC. SEC. # OR TAX I.D. #: REDACTEDCLAIM INFORMATION Claim # 2017 PI 002709CITY AGENCY INVOLVED: New York City Police DepartmentNATURE OF CLAIM: (ATTACH ADDITIONAL SHEET(S) OF PAPER, IF NECESSARY)

Unlawful conduct by a police officer. Violation of 4th Amendment right - unlawful search, unlawful detention, unlawful entry without probable cause. Reckless endangerment. Police officer filing official report that omit key details about police wrong doing and selectively including information that defames the citizens. Police officer displaying unwarranted disregard for citizens rights and safety.

On November 5th 2016, at approximately 7PM EST on the 5th, REDACTED in New York, NY 10027 PO Cadavid (Unit 28 David 412th) of the NYPD violated my right to be free from unreasonable search by forcibly entering my apartment against my explicit refusal of his verbal request to enter. The officer used intimidation and threats of taking down the door to get me to open the door, and once the door was open used force, to enter my apartment. On seeing that he had no reason to be in my apartment, rather than leaving the officer stayed in my apartment, with my ID in his hand demanding information about where my daughter was at the time. I was in fear for my life and called 911 to end the standoff. The officer(s) violated my 14th amendment right when they failed to ensure that their report of the incident included all the relevant details, instead they created a domestic incident report (2016-028-010736) that was prejudicial toward me and failed to mention the fact that officer Cadavid had forcibly entered my apartment and conducted a warrant-less room by room search.

TOTAL AMOUNT CLAIMED: \$ 1,360,000.00

IF MORE THAN ONE ITEM IS INCLUDED IN THE TOTAL AMOUNT CLAIMED, SUPPLY BREAKDOWN OF AMOUNTS AND SPECIFY ITEMS: (ATTACH ADDITIONAL SHEET(S), IF NEEDED)

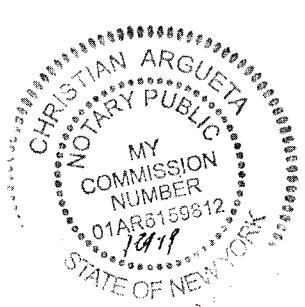
<u>ITEM</u>	<u>AMOUNT</u>
1. Pattern of select abuse of police power	\$ _____
2. Violation of individual civil rights	\$ _____
3. Inaccurate characterization of events as DIR	\$ _____
4. Future Attorney's fees for managing custody case	\$ _____
5. _____	\$ _____

PLEASE ATTACH COPIES OF SUPPORTING DOCUMENTATION, PREVIOUS CORRESPONDENCE, INVOICES, ETC.

CLAIMANT'S SIGNATURE: WJ RattraySS: STATE OF N.Y. CITY OF N.Y. SUBSCRIBED AND SWEARN TO BEFORE ME THIS 6<sup>th</sup> DAY OFJanuary, 2017

NOTARY

TO: OFFICE OF THE COMPTROLLER  
DIVISION OF LAW - RM.1225 South  
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NEW YORK, N.Y. 10007  
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